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Group Art Unit: 1744

REMARKS

Claims 1-19 were in the application as filed. In this Amendment, claims 1-4, 6, 8-13, and 15-19 have been amended, claims 5, 7, and 14 have been cancelled without prejudice, and claims 20-22 have been added.

The Examiner has indicated the allowability of claims 5-8, 14-15, 17 and 19 if rewritten to overcome rejections under 35 U.S.C. §112, ¶2, and to include all of the limitations of the base claim and any intervening claims. Applicants appreciate the Examiner's early notification of allowable subject matter.

Claim 20 is essentially claim 5 rewritten to include the limitations of claims 1 and 4. The dependency of claim 6 has been changed from claim 5 to claim 20. Claim 21 is essentially claim 7 rewritten to include the limitations of claim 1. The dependency of claim 8 has been changed from claim 7 to claim 21. Claim 22 is essentially claim 14 rewritten to include the limitations of claim 13. The dependency of claim 15 has been changed from claim 13 to claim 22. The remaining amendments have been made in response to rejections under 35 U.S.C. §112, ¶2, and to correct several typographic errors.

The drawings have been amended in response to several objections. Applicants submit that the grounds for the Examiner's objection relative to reference characters 50 and 732 have been removed by amending paragraph [0024] to remove the references to reference characters 50 and 732. The grounds for the Examiner's objection relative to paragraph [0039] have been removed by replacing the reference to Figures 9 and 10 with a reference to Figures 7 and 8. The grounds for the Examiner's objection relative to paragraph [0036] have been removed by identifying the 4 rows of bristles on the agitation brush 606 described in paragraph [0036] with the reference characters 800, 802, 804, and 806, and by amending Figure 5 to show the 4 rows of bristles 800, 802, 804, and 806. Applicants submit that the amended drawings remove all grounds for the Examiner's objections to the drawings, and that the drawings are now in condition for acceptance. Applicants request acceptance of the drawings as amended.

The amendments made herein add no new matter. Reconsideration and reexamination of the application is respectfully requested in view of the amendments and the following remarks.

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Rejections under 35 U.S.C. §112, ¶2

Claims 1-19 stand rejected under 35 U.S.C. §112, ¶2. The rejection is respectfully traversed.

Applicants assert that claims 1-19, as filed, are not indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regarded as the invention. Nevertheless, claims 1-19 have been amended, consistent with the Examiner's suggestions, as follows:

Claim 1 has been amended to replace the term "liquid" with the term "fluid," and the phrase "the surface" with the phrase "a surface."

Claims 2-12, 14-15, 17, and 19 have been amended to replace the term "An" with the term "The."

Claim 4 has been amended to replace the phrase "brush roll" with the phrase "agitation brush."

Claim 10 has been amended to replace the phrase "a surface" with the phrase "the surface," and the phrase "a floor" with the term "the."

Claim 12 has been amended to replace the term "agitation" with the term "drive," and to change its dependency from claim 10 to claim 11.

Claim 13 has been amended to replace the term "liquid" with the term "fluid," the phrase "the surface" with the phrase "a surface," and the phrase "brush roll" with the phrase "agitation brush."

Claim 16 has been amended to replace the term "liquid" with the term "fluid," and the phrase "the surface" with the phrase "a surface."

Claim 18 has been amended to replace the term "liquid" with the term "fluid," the phrase "the surface" with the phrase "a surface," and the phrase "brush roll" with the phrase "agitation brush."

The grounds for the rejection of claims 1-19 under 35 U.S.C. §112, ¶2 have been removed, and thus claims 1-19 are in condition for immediate allowance. Applicants request that the rejection be withdrawn and that claims 1-19 be allowed.

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Rejections under 35 U.S.C. §103(a)

Claims 1 and 9-12

Claims 1 and 9-12 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over admitted prior art as set forth in the preamble of the Jepson format claims in view of U.S. Patent No. 1,884,013 to Losey. The rejection is respectfully traversed.

Initially, the asserted combination of the admitted prior art with Losey '013 is traversed. The asserted combination fails to meet the *prima facie* standard for combining references under 35 U.S.C. §103(a), and is therefore improper.

Losey '013 discloses a vacuum cleaner having a rotating brush located in a vacuum nozzle such that suction through the nozzle lifts the carpet into the nozzle and against the brush, which imparts a beating and shaking action to the carpet. *Losey '013, col. 1, ln. 11-16; col. 2, ln. 86-91; col. 2, ln. 98 – col. 3, ln. 3.* The brush has bristles of differing heights to give an eccentricity to the periphery of the brush. *Losey '013, col. 2, ln. 69-73.* This eccentricity imparts the beating and shaking action to the carpet. An embodiment of the brush is illustrated that comprises a single helical rib of bristles. *Losey '013, Figs. 8 and 9.* Another embodiment is illustrated that comprises a twisted wire brush in which the length of the bristles varies to provide an eccentricity to the brush. Furthermore, the brush is segregated into two longitudinal halves with diametrically-opposed eccentricities, which alternately beat the carpet as the brush is rotated. *Losey '013, Figs. 2 and 3.*

The Examiner bears the burden of establishing a *prima facie* case of obviousness based upon the prior art. **The Examiner can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the relevant art would lead that individual to combine the relevant teachings of the references.** The Examiner cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. *In re Fine, 837 F.2d 1071, 1075, 5 USPQ2d 1780, 1783 (Fed. Cir. 1988).* When a rejection depends on a combination of prior art references, there must be some teaching, suggestion, or motivation to combine the references. *In re Rouffet, 149 F.3d 1350, 1355, 47 USPQ2d 1453, 1456 (Fed. Cir. 1998).* Obviousness cannot be established by combining the teachings of the prior art to produce

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the claimed invention, absent some teaching or suggestion supporting the combination. *ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability--the essence of hindsight. *In re Dembiczak*, 175 F.3d at 999, 50 USPQ2d at 1617. See, also, *Manual of Patent Examining Procedure* §706.02(j).

The Examiner has not identified any teaching, suggestion, or motivation in either the preamble to claim 1 or Losey '013 for making the combination asserted by the Examiner as is required to meet the *prima facie* standard. Claim 1 relates to carpet extraction cleaners, which remove soil from carpet fibers through a combination of the application of a cleaning solution and brushing or scrubbing of the fibers with a rotating brush. There is nothing in the preamble or Losey '013 that would teach, suggest, or motivate a person of ordinary skill in the extraction cleaner art to combine the rotating beater brush of Losey '013 with the preamble structure, and the Examiner has identified no such teaching, suggestion, or motivation. Indeed, Losey '013 discloses a vacuum cleaner, not a carpet extraction cleaner, having a rotating brush whose function is to beat and shake the carpet.

The function of the beater brush in Losey '013 is to agitate dirt particles embedded in the carpet sufficiently to suspend the particles in the airstream created in the vacuum nozzle, thereby facilitating the removal of the particles from the carpet. In contrast, the purpose of the carpet extraction cleaner brush of claim 1 is to work applied cleaning fluid into the carpet fibers, scrub wetted dirt particles from the carpet fibers, and mix the cleaning fluid with the dirt particles in order to place the dirt particles into a liquid suspension, where the fluid and dirt particles can be removed by a vacuum. The configuration of the two brushes facilitates this specific dirt removal process, a process which is very different than the dry vacuuming process disclosed in Losey '013, which relies on beating and shaking of the carpet to loosen and suspend dirt particles in the air. The application makes clear that the twisted wire brush is not used to beat or shake the carpet. As stated in paragraph [0037], "The twist-wire spindle 484 provides the advantage of a flexible brush 480 for conformance to the surface being cleaned and therefore equalization of the brushing force applied to the surface." (Emphasis added).

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Significantly, a carpet extraction cleaner is utilized to remove dirt which is not otherwise removed through dry vacuuming such as disclosed in Losey '013, and comprises an entirely different brush having an entirely different action in order to clean the carpet. The function and action of the brush of claim 1 in removing liquid suspended dirt particles is entirely different than the function and action of the brush disclosed in Losey '013. A person of ordinary skill in the extraction cleaner art would not have been motivated to look to Losey '013, which describes a vacuum cleaner brush for beating and shaking the carpet to loosen and suspend dirt particles in the air, for a rotating scrubbing brush for use in an extraction cleaner.

Without the identification of any teaching, suggestion, or motivation to combine the preamble structure with Losey '013, the only conclusion to be drawn is that the Examiner is simply using Applicants' disclosure as a blueprint for piecing together the preamble structure and Losey '013 in order to assert the obviousness of claim 1, which constitutes impermissible hindsight reconstruction.

Assuming, *arguendo*, that the alleged combination is tenable, it would disclose nothing more than an extraction cleaner having an eccentrically disposed single row helical brush or a twisted wire brush having diametrically opposed longitudinal eccentricities, as illustrated in Losey '013 Figures 2 and 3.

First, Losey '013 does not disclose a sinusoidally arranged brush. At most, Losey '013 discloses a helically arranged brush. Furthermore, Losey '013 discloses only a single row of bristles, not the multi-row bristles required in claim 1. While Losey '013 Figures 2 and 3 disclose a twisted wire brush, the brush is segregated into two longitudinal halves with diametrically-opposed eccentricities, which alternately beat the carpet as the brush is rotated.

Claim 1 is not rendered obvious by the Examiner's asserted combination and is thus in condition for immediate allowance. Applicants request that the rejection be withdrawn and that claim 1 be allowed.

Claims 9-12 depend from claim 1, and, for the reasons discussed with respect to claim 1, are not rendered obvious by the Examiner's asserted combination. Claims 9-12 are in condition for immediate allowance. Applicants request that the rejection be withdrawn and that claims 9-12 be allowed.

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Claim 2

Claim 2 stands rejected under 35 U.S.C. §103(a) as allegedly unpatentable over admitted prior art as set forth in the preamble of the Jepson format claim in view of Losey '013 and further in view of U.S. Patent No. 3,241,172 to Tilgner. The rejection is respectfully traversed.

The asserted combination of the admitted prior art with Losey '013 and Tilgner '172 is traversed. The asserted combination fails to meet the *prima facie* standard for combining references under 35 U.S.C. §103(a), and is therefore improper.

Tilgner '172 discloses a construction of a rotating brush in which a brush strip comprising a plurality of bristle tufts is retained along a cylindrical core member by being clipped into a retaining strip encircling the core member. The brush construction is used in "permanently mounted brushes for cleaning sheet glass and sheet metal ... and for cleaning conveyors, such as belt conveyors for coal, sand, salt, ores, and the like.... Since many of these cylindrical brushes are permanently mounted, it is advantageous to utilize replaceable brush strips." *Tilgner '172, col. 1, ln. 13-17, 26-28*. An embodiment of the brush construction comprises a plurality of helical ribs of bristles.

The impropriety of the asserted combination of the admitted prior art with Losey '013 discussed above applies with equal force to the asserted combination of the admitted prior art with Losey '013 and Tilgner '172. The addition of Tilgner '172 does not mitigate the deficiencies in the asserted combination of the admitted prior art with Losey '013.

The Examiner has not identified any teaching, suggestion, or motivation in either the preamble to claim 1, Losey '013, or Tilgner '172 for making the combination asserted by the Examiner as is required to meet the *prima facie* standard for a rejection under 35 U.S.C. §103(a). As discussed above, claim 1, and consequently claim 2, relates to carpet extraction cleaners, while Losey '013 relates to a dry vacuum cleaner. Tilgner '172 relates to permanently mounted brushes for cleaning sheet glass and sheet metal, and for cleaning conveyors. There is nothing in the preamble, Losey '013, or Tilgner '172 that would teach, suggest, or motivate a person of ordinary skill in the extraction cleaner art to combine the brush configurations of Losey '013 and Tilgner '172 with the preamble structure, and the Examiner has identified no such teaching, suggestion, or motivation.

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Again, without the identification of any teaching, suggestion, or motivation to combine the preamble structure with Losey '013 and Tilgner '172, the only conclusion to be drawn is that the Examiner is simply using Applicants' disclosure as a blueprint for piecing together the preamble structure, Losey '013, and Tilgner '172 in order to assert the obviousness of claim 2, which constitutes impermissible hindsight reconstruction.

Assuming, *arguendo*, that the alleged combination is tenable, it would disclose nothing more than an extraction cleaner having either a four-row helical brush with clipped-in bristle retaining strips, or a twisted wire brush having diametrically opposed longitudinal eccentricities.

Amended claim 2 depends from claim 1. As discussed above with respect to claim 1, Losey '013 does not disclose a multi-row, sinusoidally arranged bristle brush. Tilgner '172 discloses multiple rows of bristles, but does not disclose a sinusoidally arranged bristle brush, nor does Tilgner '172 disclose a helically arranged twisted wire brush.

Claim 2 is not rendered obvious by the Examiner's asserted combination and is thus in condition for immediate allowance. Applicants request that the rejection be withdrawn and that claim 2 be allowed.

Claim 3

Claim 3 stands rejected under 35 U.S.C. §103(a) as allegedly unpatentable over admitted prior art as set forth in the preamble of the Jepson format claim in view of Losey '013 and further in view of U.S. Patent No. 1,205,162 to Clements. The rejection is respectfully traversed.

The asserted combination of the admitted prior art with Losey '013 and Clements '162 is traversed. The asserted combination fails to meet the *prima facie* standard for combining references under 35 U.S.C. §103(a), and is therefore improper.

Clements '162 discloses a vacuum cleaner having a helical twisted wire brush.

The impropriety of the asserted combination of the admitted prior art with Losey '013 discussed above applies with equal force to the asserted combination of the admitted prior art with Losey '013 and Clements '162. The addition of Clements '162 does not mitigate the deficiencies in the asserted combination of the admitted prior art with Losey '013.

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The Examiner has not identified any teaching, suggestion, or motivation in either the preamble to claim 1, Losey '013, or Clements '162 for making the combination asserted by the Examiner as is required to meet the *prima facie* standard for a rejection under 35 U.S.C.

§103(a). As discussed above, claim 1, and consequently claim 3, relates to carpet extraction cleaners, while Losey '013 and Clements '162 relate to a dry vacuum cleaner. There is nothing in the preamble to claim 1, Losey '013, or Clements '162 that would teach, suggest, or motivate a person of ordinary skill in the extraction cleaner art to combine the brush configurations of Losey '013 and Clements '162 with the preamble structure, and the Examiner has identified no such teaching, suggestion, or motivation.

Again, without the identification of any teaching, suggestion, or motivation to combine the preamble structure with Losey '013 and Clements '162, the only conclusion to be drawn is that the Examiner is simply using Applicants' disclosure as a blueprint for piecing together the preamble structure, Losey '013, and Clements '162 in order to assert the obviousness of claim 3, which constitutes impermissible hindsight reconstruction.

Assuming, *arguendo*, that the alleged combination is tenable, it would disclose nothing more than an extraction cleaner having an eccentrically disposed single row helical brush or a twisted wire brush having diametrically opposed longitudinal eccentricities.

Claim 3 is not rendered obvious by the Examiner's asserted combination and is thus in condition for immediate allowance. Applicants request that the rejection be withdrawn and that claim 3 be allowed.

Claim 4

Claim 4 stands rejected under 35 U.S.C. §103(a) as allegedly unpatentable over admitted prior art as set forth in the preamble of the Jepson format claim in view of Losey '013 and further in view of U.S. Patent No. 6,243,917 to Conrad. The rejection is respectfully traversed.

The asserted combination of the admitted prior art with Losey '013 and Conrad '917 is traversed. The asserted combination fails to meet the *prima facie* standard for combining references under 35 U.S.C. §103(a), and is therefore improper.

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Conrad '917 discloses a floating brush for a vacuum cleaner. The brush is supported on a pair of pivoting arms which are spring-biased away from the surface to be cleaned. *Conrad '917, col. 4, ln. 65 – col. 5, ln. 9.* (Emphasis added).

The impropriety of the asserted combination of the admitted prior art with Losey '013 discussed above applies with equal force to the asserted combination of the admitted prior art with Losey '013 and Conrad '917. The addition of Conrad '917 does not mitigate the deficiencies in the asserted combination of the admitted prior art with Losey '013.

The Examiner has not identified any teaching, suggestion, or motivation in either the preamble to claim 1, Losey '013, or Conrad '917 for making the combination asserted by the Examiner as is required to meet the *prima facie* standard for a rejection under 35 U.S.C. §103(a). As discussed above, claim 1, and consequently claim 4, relates to carpet extraction cleaners, while Losey '013 and Conrad '917 relate to a dry vacuum cleaner. There is nothing in the preamble, Losey '013, or Conrad '917 that would teach, suggest, or motivate a person of ordinary skill in the extraction cleaner art to combine the brush configurations of Losey '013 and Conrad '917 with the preamble structure, and the Examiner has identified no such teaching, suggestion, or motivation.

Again, without the identification of any teaching, suggestion, or motivation to combine the preamble structure with Losey '013 and Conrad '917, the only conclusion to be drawn is that the Examiner is simply using Applicants' disclosure as a blueprint for piecing together the preamble structure, Losey '013, and Conrad '917 in order to assert the obviousness of claim 4, which constitutes impermissible hindsight reconstruction.

Assuming, *arguendo*, that the alleged combination is tenable, it would disclose nothing more than an extraction cleaner having a brush mounted on a pair of pivoting arms having a spring which biases the brush away from the surface to be cleaned.

Claim 4 depends from claim 1 and requires an extraction cleaner having an agitation brush mounted on a pair of pivoting arms having a spring which biases the brush into contact with the surface to be cleaned.

Contrary to the Examiner's assertion, the combination of the preamble structure, Losey '013, and Conrad '917 does not disclose a carpet extraction cleaner having either a sinusoidally

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arranged bristle brush, or a helically arranged twisted wire brush, wherein the brush is mounted on a pair of pivoting arms having a spring which biases the brush into contact with the surface to be cleaned. The brush supporting arms of Conrad '917 are not biased toward the surface to be cleaned, as required in claim 4

Claim 4 is not rendered obvious by the Examiner's asserted combination and is thus in condition for immediate allowance. Applicants request that the rejection be withdrawn and that claim 4 be allowed.

Claim 13

Claim 13 stands rejected under 35 U.S.C. §103(a) as allegedly unpatentable over admitted prior art as set forth in the preamble of the Jepson format claim in view of Conrad '917. The rejection is respectfully traversed.

The asserted combination of the admitted prior art with Conrad '917 is traversed. The asserted combination fails to meet the *prima facie* standard for combining references under 35 U.S.C. §103(a), and is therefore improper.

The Examiner has not identified any teaching, suggestion, or motivation in either the preamble to claim 13 or Conrad '917 for making the combination asserted by the Examiner as is required to meet the *prima facie* standard for a rejection under 35 U.S.C. §103(a). Claim 13 relates to carpet extraction cleaners, Conrad '917 relates to a dry vacuum cleaner. There is nothing in the preamble or Conrad '917 that would teach, suggest, or motivate a person of ordinary skill in the extraction cleaner art to combine the brush configuration of Conrad '917 with the claim 13 preamble structure, and the Examiner has identified no such teaching, suggestion, or motivation.

Again, without the identification of any teaching, suggestion, or motivation to combine the preamble structure with Conrad '917, the only conclusion to be drawn is that the Examiner is simply using Applicants' disclosure as a blueprint for piecing together the preamble structure and Conrad '917 in order to assert the obviousness of claim 13, which constitutes impermissible hindsight reconstruction.

Assuming, *arguendo*, that the alleged combination is tenable, it would disclose nothing

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more than an extraction cleaner having a brush mounted on a pair of pivoting arms having a spring which biases the brush away from the surface to be cleaned. Claim 13 requires a brush biased toward the surface to be cleaned.

Claim 13 requires an extraction cleaner having an elongated agitation brush mounted to a housing through a pair of arms which are pivotally attached at one end to the housing and rotatably support the elongated agitation brush at another end, and a spring between the arms and the housing which biases the elongated agitation brush into contact with the surface to be cleaned. As discussed above, Conrad '917 discloses a vacuum cleaner brush which is biased away from the surface to be cleaned. Thus, the brush described in claim 13 is not disclosed by the Examiner's asserted combination of the preamble structure and Conrad '917.

Claim 13 is not rendered obvious by the Examiner's asserted combination and is thus in condition for immediate allowance. Applicants request that the rejection be withdrawn and that claim 13 be allowed.

CONCLUSION

For the reasons discussed above, claims 1-4, 6, 8-13, 15-19, and 20-22 are in condition for immediate allowance. It is respectfully submitted that all of the remaining claims in the application are allowable over the prior art of record. Early notification of allowability is respectfully requested.

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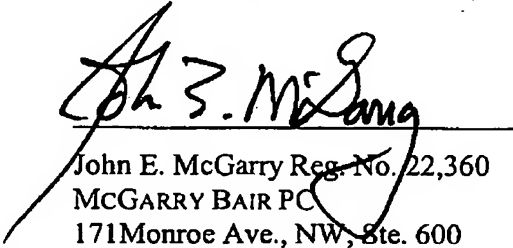
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If there are any remaining issues which the Examiner believes may be resolved in an interview, the Examiner is respectfully invited to contact the undersigned.

Respectfully submitted,

ERIC C. HUFFMAN ET AL.

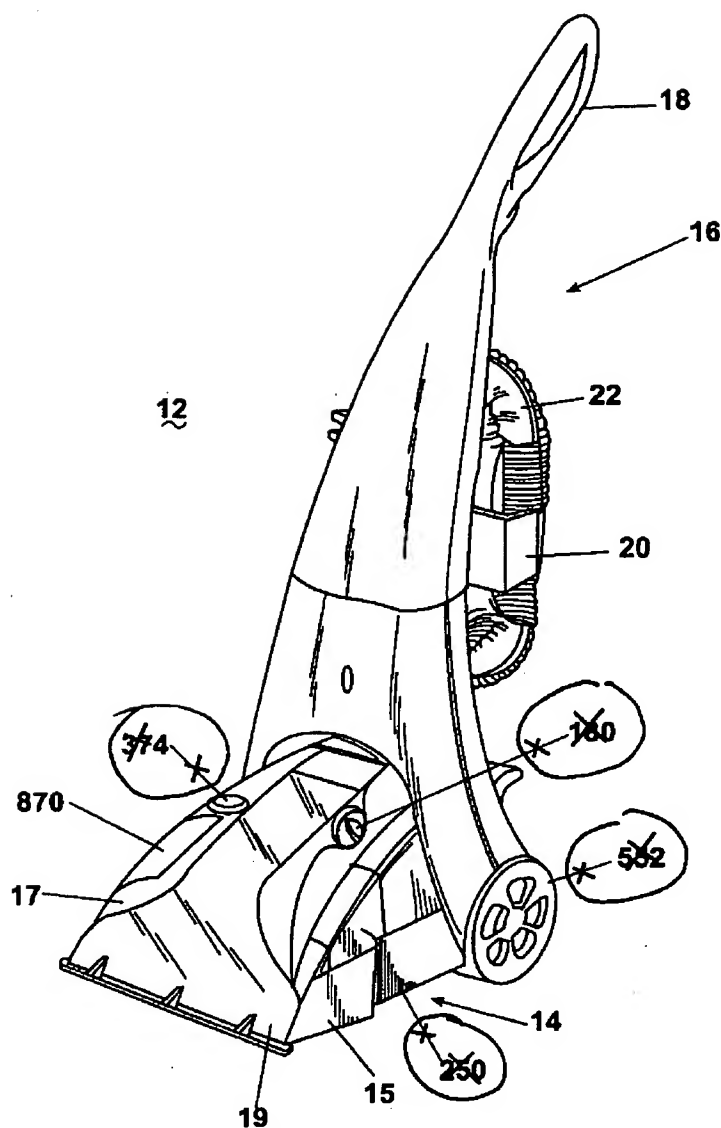
Dated: 12-09-04



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ANNOTATED DRAWINGS

**Fig. 1**

ANNOTATED DRAWINGS

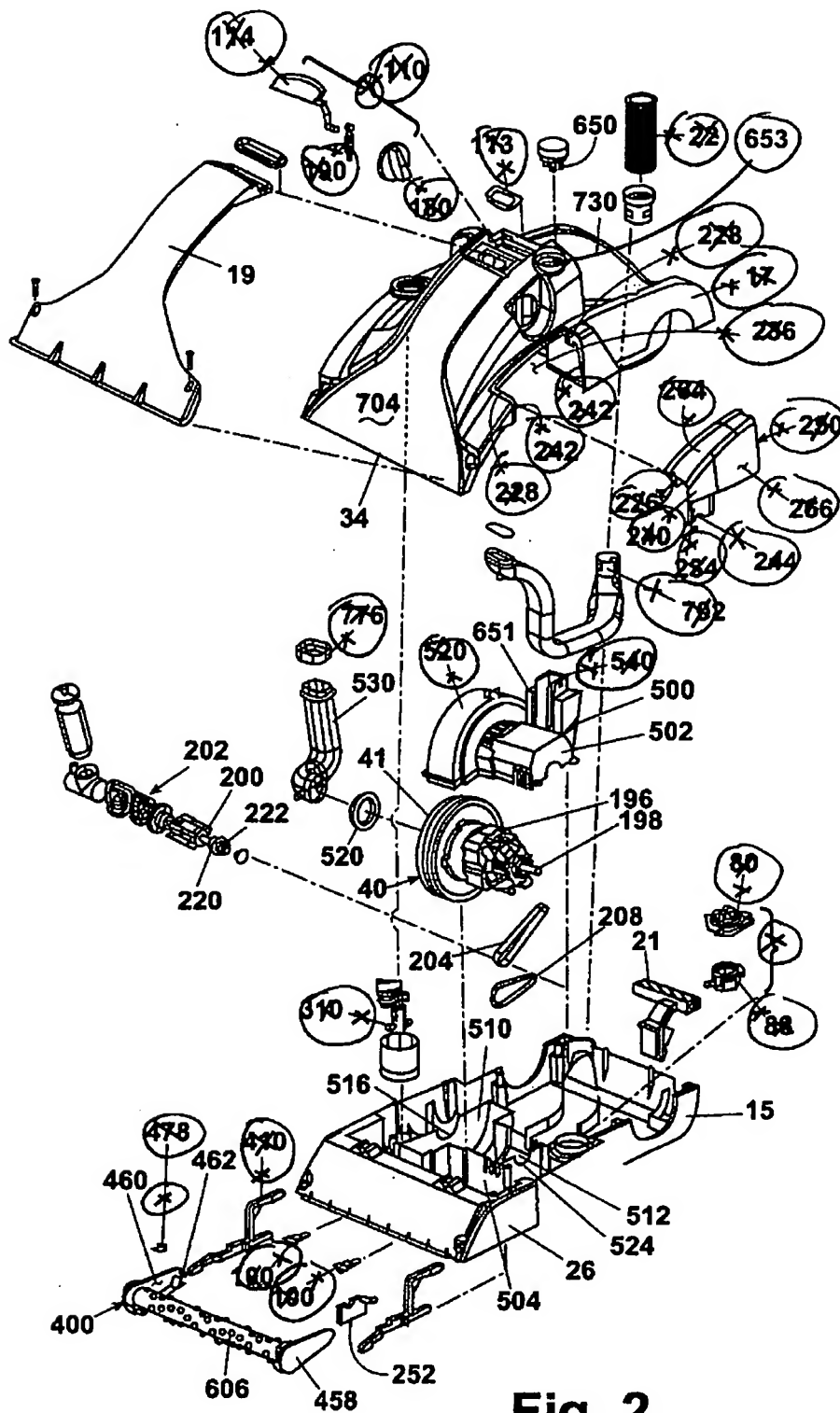


Fig. 2

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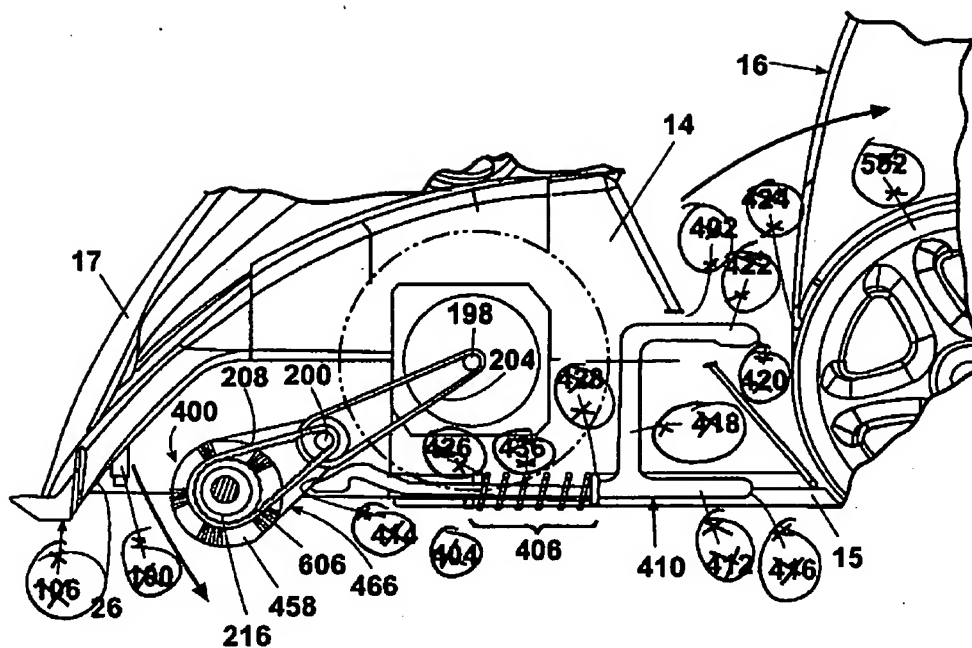
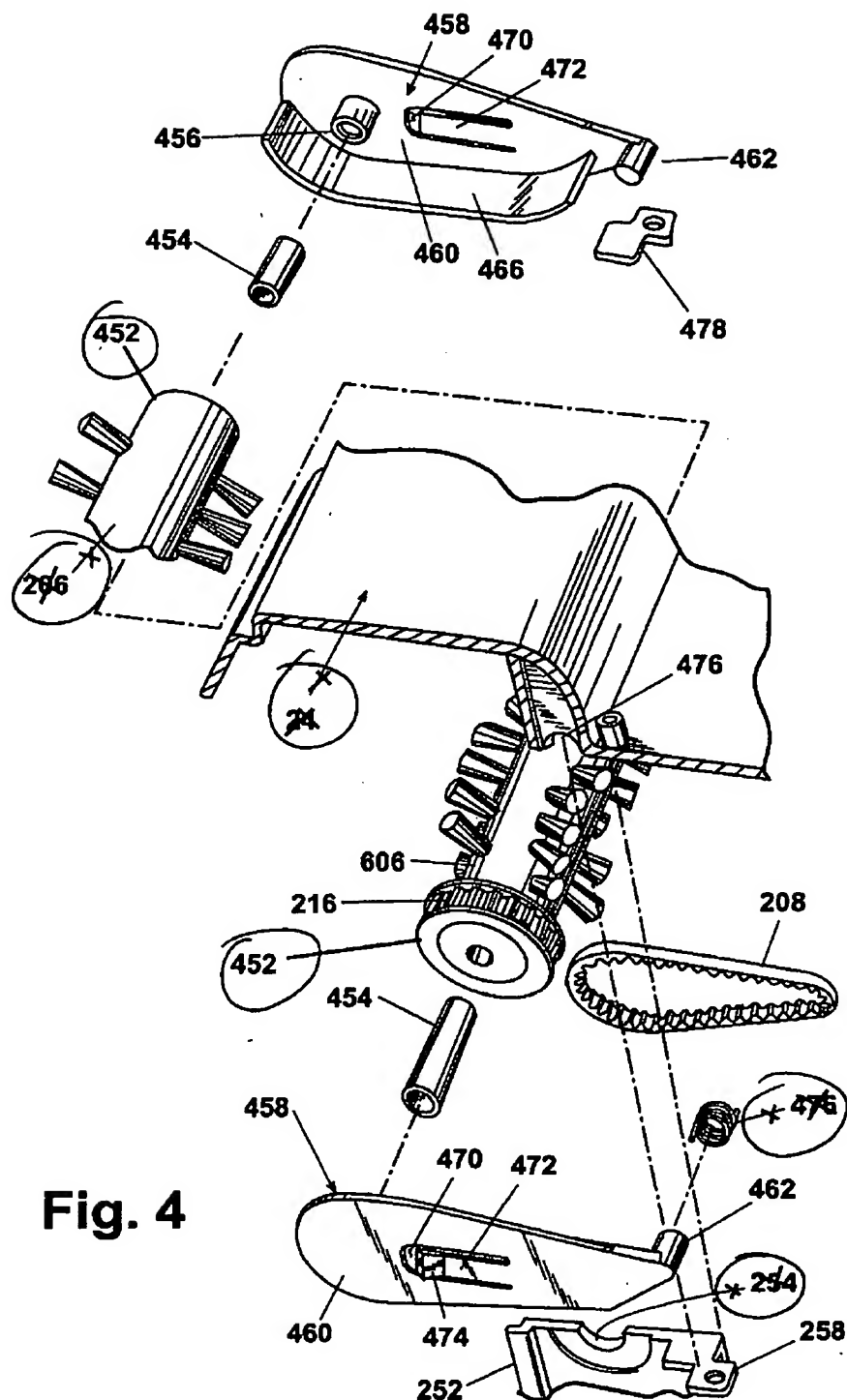
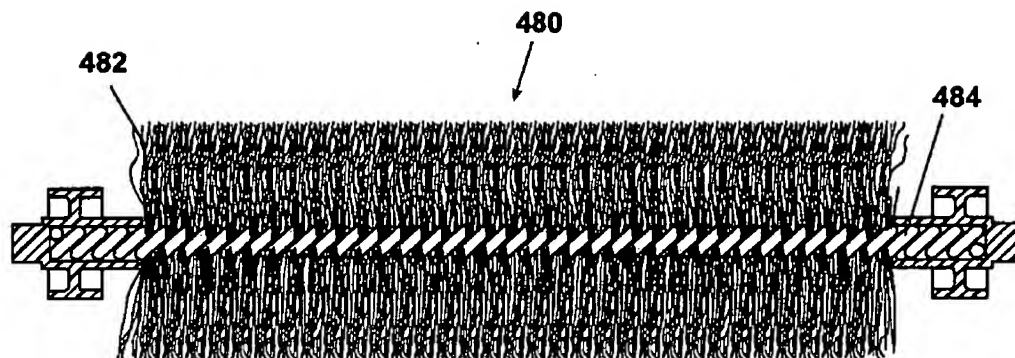
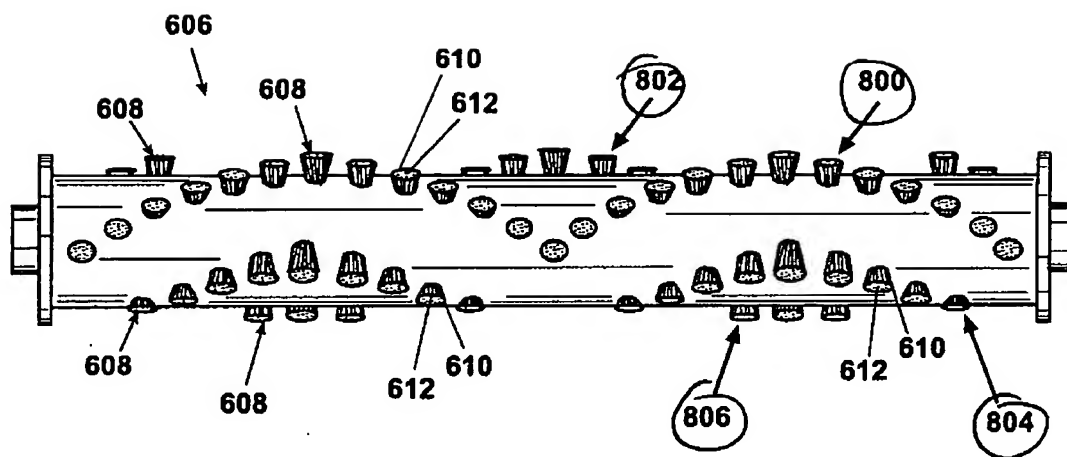


Fig. 3

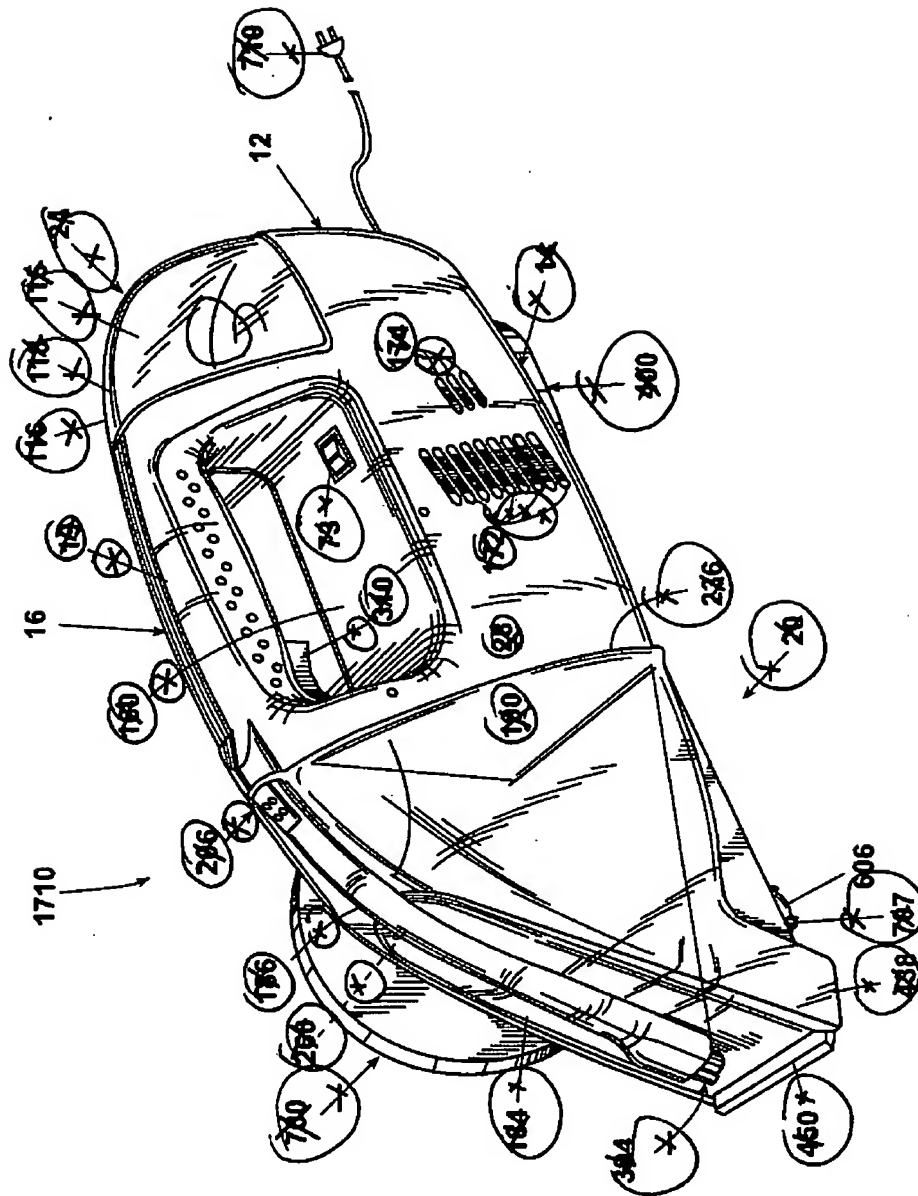
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**Fig. 6****Fig. 5**

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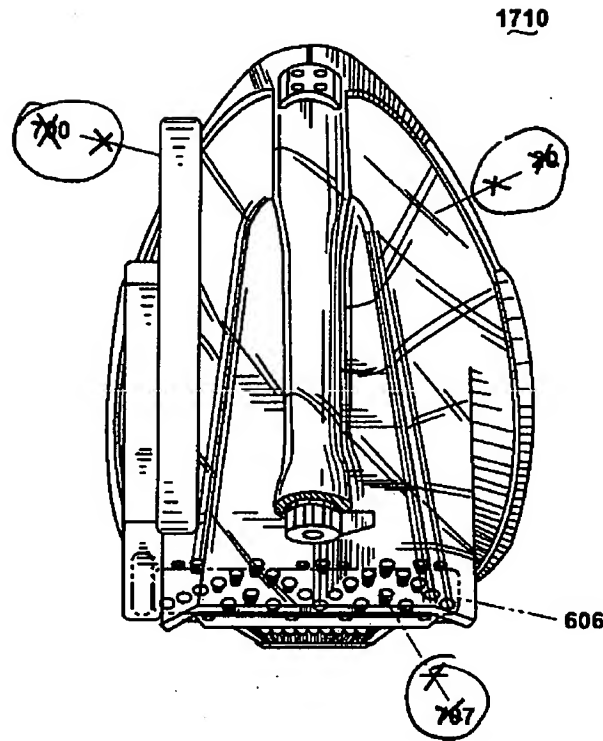


Fig. 8

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